

**COUNTY COUNCIL  
OF  
HARFORD COUNTY, MARYLAND**

**Bill No. 05-38**

Introduced by: Council Member Guthrie

Legislative Day No. 05-21 Date: August 9, 2005

AN ACT to repeal and reenact, without amendments, Subsection B (2)(a), Schools, of Section 267-104, Adequate public facilities, of Article XXI, Public Facilities, of Part 6, Growth Management, of Chapter 267, Zoning, of the Harford County Code, as amended; to repeal Section 2 and Section 4, of County Council Bill 04-08, as amended, as enacted by the Council on April 13, 2004; and to repeal and reenact, with amendments, Section 3, of County Council Bill 04-08, as amended, as enacted by the Council on April 13, 2004; to repeal the sunset provision of the adequate public facilities law for schools as established by Council Bill 04-08, as amended.

By the Council, August 9, 2005

Introduced, read first time, ordered posted and public hearing scheduled

on: September 6, 2005

at: 7:00 PM

By order: Barbara J. Ruth Council Administrator

**PUBLIC HEARING**

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on September 6, 2005, and concluded on September 6, 2005.

Barbara J. Ruth, Council Administrator

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [BRACKETS] indicate matter Deleted from existing law. Underlining indicates Language added to bill by amendment. Language Lined through indicates matter stricken out of Bill By amendment.

Section 1. Be It Enacted By the County Council of Harford County, Maryland, that Subsection B(2)(a), Schools, of Section 267-104, Adequate public facilities, of Article XXI, Public Facilities, of Part 6, Growth Management, of Chapter 267, Zoning, of the Harford County Code, as amended, be, and it is hereby, repealed and reenacted, without amendments, to read as follows:

Chapter 267. Zoning.

Part 6. Growth Management.

Article XXI. Public Facilities.

Section 267-104. Adequate public facilities.

B. Adequacy standards (minimum acceptable level of service).

(2) Residential development. Approval of residential subdivision plans and site plans for multi-family development shall be subject to findings of adequate capacity based on the standards set in this subsection, and the current and projected use level described in the annual growth report:

(a) Schools

(1) Preliminary approval. Preliminary subdivision plans exceeding five lots and site plans for multi-family residential developments exceeding five dwelling units shall not be approved at locations where either of the following conditions exists:

(a) The enrollment at the elementary school which serves the site is greater than 105% of the rated capacity, or is projected to be greater than 105% within 3 years; or

(b) The enrollment of either the middle school or high school which serves the site is greater than 105% of the rated capacity or is projected to be greater than 105% within 3 years.

(2) Conditional review. If Paragraphs (2)(a)(1)(a) or (b) of this subsection prevent approval of a preliminary subdivision plan or a site plan, the Department of Planning and Zoning may proceed with conditional review of the plan and place it on a waiting list arranged by date of completion of the review. Record plats, grading permits, and public works agreements for utilities or roads shall not be executed by the county until the plan for the project is removed from the waiting list and preliminary approval is granted. Removal from the waiting list shall occur only when the condition that prevented approval under Paragraphs (2)(a)(1)(a) or (b) of this subsection no longer exists.

(3) Exemptions. The provision of this subsection shall not apply to transient housing, housing for the elderly and continuing care retirement communities.

(4) Grandfathering. The provision of this section concerning the adequacy of schools shall not apply to those developments which, as of the effective date of Bill No. 91-70 (4/6/92), have an approved preliminary plan.

Section 2. And Be It Further Enacted, that Section 2 and Section 4 of County Council Bill 04-08, as amended, as enacted by the Council on April 13, 2004, be, and they are hereby repealed; and that Section 3 of County Council Bill 04-08, as amended, as enacted by the Council on April 13, 2004, be, and it is hereby, repealed and reenacted, with amendments, all to read as follows:

[Section 2. And Be It Further Enacted, That Subsection B(2)(a), Schools, of Section 267-104, Adequate public facilities, of Article XXI, Public Facilities, of Part 6, Growth Management, of Chapter 267, Zoning, shall read as follows:

Chapter 267. Zoning.

Part 6. Growth Management.

Article XXI. Public Facilities.

Section 267-104. Adequate public facilities.

B. Adequacy Standards (minimum acceptable level of service).

(2) Residential development. Approval of residential subdivision plans and site plans for multi-family development shall be subject to findings of adequate capacity based on the standards set in this subsection, and the current and projected use level described in the annual growth report:

(a) Schools

(1) Preliminary approval. Preliminary subdivision plans exceeding five lots and site plans for multi-family residential developments exceeding five dwelling units shall not be approved at locations where either of the following conditions exists:

(a) The enrollment at the elementary school which serves the site is greater than 115% of the rated capacity, or is projected to be greater than 115% within 5 years; or

(b) The enrollment of either the middle school or high school which serves the site is greater than 115% of the rated capacity or is projected to be greater than 115% within 5 years.

1           (2) Conditional review. If paragraphs (2)(a)(1)(a) or (b) of this subsection prevent  
2           approval of a preliminary subdivision plan or a site plan, the Department of  
3           Planning and Zoning may proceed with conditional review of the plan and  
4           place it on a waiting list arranged by date of completion of the review. Record  
5           plats, grading permits, and public work agreements for utilities or roads shall  
6           not be executed by the county until the plan for the project is removed from  
7           the waiting list and preliminary approval is granted. Removal from the  
8           waiting list shall occur only when the condition that prevented approval under  
9           Paragraphs (2)(a)(1)(a) or (b) of this subsection no longer exists.

10          (3) Exemptions. The provisions of this subsection shall not apply to transient  
11          housing, housing for the elderly and continuing care retirement communities.

12          (4) Grandfathering. The provisions of this section concerning the adequacy of  
13          schools shall not apply to those developments which, as of the effective date  
14          of Bill No. 91-70 (4/6/92), have an approved preliminary plan.]

15          Section 3. And Be It Further Enacted, that section 1 of this Act shall take effect 60  
16          calendar days from the date it becomes law [and shall remain in effect until June 30,  
17          2007].

18          [Section 4. And Be It Further Enacted, that section 2 of this act shall take effect at  
19          the time when Section 1 of this act no longer has any force or effect.]

20          Section 3. And Be It Further Enacted, that this Act shall take effect 60 calendar days from the  
21          date it becomes law.

EFFECTIVE:

*The Council Administrator does hereby certify that fifteen (15) copies of this Bill are immediately available for distribution to the public and the press.*

  
\_\_\_\_\_  
Council Administrator